

Message Text

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ORIGIN L-03

INFO OCT-01 ARA-16 ISO-00 SCA-01 SNM-02 JUSE-00 CIAE-00

INR-10 NSAE-00 RSC-01 /034 R

DRAFTED BY L/M/SCA:TJTALLERICO:EJS

APPROVED BY L/M/SCA:KEMALMBORG

L/EB - TGAITHER (DRAFT)

S/NM - NWARNER (DRAFT)

ARA/APU - JDAVIS

ARA - APSHANKLE (DRAFT)

DESIRED DISTRIBUTION

JUSTICE - MR. STEIN (INFO)

----- 093047

R 091632Z MAY 74

FM SECSTATE WASHDC

TO AMEMBASSY BUENOS AIRES

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E.O. 11652: N/A

TAGS: CPRS, PFOR, AR

SUBJ: EXTRADITION - LEGAL REPRESENTATION

REF: BUENOS AIRES 1171

1. BECAUSE OF STATEMENTS CONTAINED PARA 1(C) REFTEL, DEPT OFFICER GAITHER HAS COMMUNICATED SEVERAL TIMES WITH ARG EMB OFFICER HUERGO. ON APRIL 5, HUERGO READ GAITHER REPORT FROM GONI, APPROVED BY THE UNDER SECRETARY FOR FOREIGN RELATIONS AND, THEREFORE, ACCORDING TO GONI, REPRESENTING THE OFFICIAL GOA POSITION. GONI'S REPORT INDICATED THAT (1) HE NEVER INTENDED TO STATE THAT USG SHOULD HIRE LOCAL ATTORNEYS AND (2) THAT THE NEGOTIATING HISTORY OF THE TREATY MADE IT UNNECESSARY FOR THE US TO HIRE LOCAL ATTORNEYS. THE REPORT INDICATED THAT A REVIEW OF EXTRADITION REQUESTS FOR POTENTIAL PROCEDURAL ERRORS WOULD BE MADE PRIOR TO SUBMISSION TO THE COURTS. THIS REVIEW WOULD ONLY RELATE TO AUTHENTICATION. SUBSTANTIVE
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ASPECTS OF THE CASE WOULD BE LEFT TO CONSIDERATION BY THE

COURT. HUERGO INDICATED THAT HE WOULD CABLE BA THAT THE CONTENTS OF THE GONI REPORT HAS BEEN COMMUNICATED TO GAITHER, THAT GAITHER RESPONDED THAT THE REPORT WAS HELPFUL, AND THAT OUR EMB WOULD BE IN TOUCH WITH GONI'S OFFICE WITH RESPECT TO THE PROCEDURES WHICH SHOULD BE FOLLOWED IN FUTURE CASES.

2. BASED ON INADEQUACY OF PROPOSED REVIEW, DEPT IS PREPARED TO REQUEST THAT JUSTICE DEPT FUND HIRING OF LOCAL ATTORNEY TO ASSIST EMB IN MAKING INHOUSE ASSESSMENT OF CASES TO DETERMINE POTENTIAL DEFECTS PRIOR TO SUBMISSION OF REQUESTS TO GOA. HOWEVER, SUCH ARRANGEMENT WOULD ONLY PROVIDE INTERIM SOLUTION. JUSTICE WILL PROBABLY RIGHTLY INSIST THAT MATTER BE SETTLED BY:

A) NEGOTIATING PROTOCOL WHICH WOULD ELIMINATE THE ARTICLE 19 REPRESENTATION AGREEMENT (THAT IS, RELIEVE BOTH PARTIES OF OBLIGATION TO REPRESENT); OR

B) NEGOTIATING PROTOCOL WHICH CLEARLY REQUIRES REQUESTED PARTY TO REVIEW DOCUMENTATION PRIOR TO SUBMISSION. SUCH A PROTOCOL, IF RATIFIED BY ARGENTINE PROCEDURES, MIGHT PROVIDE LEGAL AUTHORITY FOR GOA ATTORNEYS TO AFFORD SUCH REVIEW. POSSIBILITY OF RATIFICATION OF PROTOCOL HAVING SUCH EFFECT WOULD, OF COURSE, HAVE TO BE CLARIFIED PRIOR TO SIGNATURE OF SUCH PROTOCOL.

3) DEPT NEEDS EMB ASSESSMENT REGARDING SUBMISSION OF DIPLOMATIC NOTE BY EMB OUTLINING PROBLEM AND ALTERNATIVES A AND B ABOVE. IF APPROACH WILL BE MADE, DEPT WILL THEN FORMALLY REQUEST JUSTICE TO FUND INTERIM PROCEDURE CONTEMPLATED PARA 2. RUSH

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Message Attributes

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Disposition Approved on Date:
Disposition Authority: GarlanWA
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